

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1472**

**Introduced by Assembly Member Coto**

February 22, 2005

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An act to amend ~~Section 33333.10~~ of Sections 33333.8 and 33333.10 of, and to add Section 33333.12 to, the Health and Safety Code, relating to redevelopment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1472, as amended, Coto. Redevelopment.

Existing law limits the effectiveness of a redevelopment plan adopted on or before December 31, 1993, to 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later, after which the agency has no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with provisions governing compliance with an agency's affordable housing obligations, and to enforce existing covenants, contracts, or other obligations. Notwithstanding these limits on the effectiveness of a redevelopment plan, existing law authorizes an agency to amend that plan to extend the time limit on effectiveness of the plan for a maximum of 10 additional years *if the agency finds that significant blight remains within the project area and this blight cannot be eliminated without extending the effectiveness of the plan and the receipt of property taxes.*

This bill would ~~make a technical, nonsubstantive change in the provisions authorizing the extension of the time limit on effectiveness of the plan~~ authorize an agency also to extend the time limit on effectiveness of the plan for a maximum of 10 additional years *if the project area (1) is planned to be or is served by an existing publicly*

*funded rail transit system with stations located within walking distance of large concentrations of existing and planned development, (2) is designated primarily for office, industrial, or research and development use, with high density residential uses allowed, (3) has suffered a significant loss in jobs, (4) has suffered a significant loss of assessed value due to loss of rental income, business inventory, or other economic factors, and (5) suffers from significant vacancy rates in existing office, industrial, or research and development buildings.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 33333.8 of the Health and Safety Code  
2     is amended to read:

3     33333.8. (a) Every redevelopment agency shall comply with  
4     and fulfill its obligations with regard to the provision of  
5     affordable housing as required by this part prior to the time limit  
6     on the effectiveness of the redevelopment plan established  
7     pursuant to Sections 33333.2, 33333.6, ~~and~~ 33333.10, and  
8     33333.12, and before the agency exceeds a limit on the number  
9     of dollars of taxes that may be divided and allocated to the  
10    redemption agency if required by Section 33333.4 or the limit  
11    on the number of dollars of taxes in a redevelopment plan. A  
12    legislative body may not adopt an ordinance terminating a  
13    redemption project area if the agency has not complied with  
14    its affordable housing obligations. Notwithstanding any other  
15    provision of law, this section shall apply to each redevelopment  
16    agency and each redevelopment project area established or  
17    merged pursuant to this part and Part 1.5 (commencing with  
18    Section 34000), including project areas authorized pursuant to  
19    this chapter and each individual project area that is authorized  
20    pursuant to any other provision of law.

21    (1) The affordable housing obligations specified in subdivision  
22    (a) shall include all of the following:

23    (A) The obligation to make deposits to and expenditures from  
24    the Low and Moderate Income Housing Fund pursuant to  
25    Sections 33334.2, 33334.3, 33334.4, 33334.6, 33487, 33492.16,  
26    and other similar and related statutes.

1 (B) The obligation to eliminate project deficits pursuant to  
2 Sections 33334.6, 33487, 33492.16, and other similar and related  
3 statutes.

4 (C) The obligation to expend or transfer excess surplus funds  
5 pursuant to Section 33334.12 and other similar and related  
6 statutes.

7 (D) The obligation to provide relocation assistance pursuant to  
8 Article 9 (commencing with Section 33410), Section 7260 of the  
9 Government Code, or other applicable relocation laws.

10 (E) The obligation to provide replacement housing pursuant to  
11 subdivision (a) of Section 33413, Article 9 (commencing with  
12 Section 33410), and other similar and related statutes.

13 (F) The obligation to provide inclusionary housing pursuant to  
14 Section 33413 and other similar and related statutes and  
15 ordinances.

16 (2) A redevelopment agency shall not adopt an ordinance  
17 terminating a redevelopment project area if the agency has not  
18 complied with these obligations.

19 (b) If, on the date of the time limit on the effectiveness of the  
20 redevelopment plan, a redevelopment agency has not complied  
21 with subdivision (a), the time limit on the effectiveness of the  
22 redevelopment plan, and, if necessary, the time limit for  
23 repayment of indebtedness, shall be suspended until the agency  
24 has complied with subdivision (a). In addition, the agency shall  
25 receive and use all tax increment funds that are not pledged to  
26 repay indebtedness until the agency has fully complied with its  
27 obligations.

28 (c) If, on the date of the time limit on the repayment of  
29 indebtedness, the agency has not complied with subdivision (a),  
30 the time limit on the repayment of indebtedness shall be  
31 suspended until the agency has complied with subdivision (a). In  
32 addition, the agency shall receive and use tax increment funds  
33 until the agency has fully complied with its obligations.

34 (d) If, on the date of the time limit on the repayment of  
35 indebtedness, the agency has complied with its obligations under  
36 subdivision (a) and has moneys remaining in the Low and  
37 Moderate Income Housing Fund, the agency shall transfer the  
38 remaining moneys to a low and moderate income housing fund  
39 or account for a different project area within the agency's  
40 jurisdiction, if one exists, or if a different project area does not

1 exist, the agency shall either transfer the remaining moneys to a  
2 special fund of the community or to the community or county  
3 housing authority. The community, community housing  
4 authority, or county housing authority to which the remaining  
5 moneys are transferred shall utilize the moneys for the purposes  
6 of, and subject to the same restrictions that are applicable to, the  
7 redevelopment agency under this part.

8 (e) If a redevelopment plan provides a limit on the total  
9 amount of tax increment funds that may be received by a  
10 redevelopment agency for any project area, and if that limit is  
11 reached prior to the agency complying with its obligations  
12 pursuant to subdivision (a), that limit is suspended until the  
13 agency has complied with subdivision (a) and the agency shall  
14 receive and use tax increment funds until the agency has fully  
15 complied with its obligations.

16 (f) If an agency fails to comply with its obligations pursuant to  
17 this section, any person may seek judicial relief. The court shall  
18 require the agency to take all steps necessary to comply with  
19 those obligations, including, as necessary, the adoption of  
20 ordinances, to incur debt, to obtain tax increments, to expend tax  
21 increments, and to enter into contracts as necessary to meet its  
22 housing obligations under this part.

23 ~~SECTION 1.—~~

24 *SEC. 2.* Section 33333.10 of the Health and Safety Code is  
25 amended to read:

26 33333.10. (a) (1) Notwithstanding the time limits in  
27 subdivisions (a) and (b) of Section 33333.6, an agency that  
28 adopted a redevelopment plan on or before December 31, 1993,  
29 may, pursuant to this section, amend that plan to extend the time  
30 limit on effectiveness of the plan for up to 10 additional years  
31 beyond the limit allowed by subdivision (a) of Section 33333.6.

32 (2) In addition, the agency may, pursuant to this section,  
33 amend that plan to extend the time limit on the payment of  
34 indebtedness and receipt of property taxes to be not more than 10  
35 years from the termination of the effectiveness of the  
36 redevelopment plan as ~~such~~ *that* time limit has been amended  
37 pursuant to paragraph (1).

38 (b) ~~A—~~*Except as provided in Section 33333.12, a*  
39 redevelopment plan may be amended pursuant to subdivision (a)

1 only after the agency finds, based on substantial evidence, that  
2 both of the following conditions exist:

- 3 (1) Significant blight remains within the project area.  
4 (2) This blight cannot be eliminated without extending the  
5 effectiveness of the plan and the receipt of property taxes.

6 (c) As used in this section:

7 (1) “Blight” has the same meaning as that term is given in  
8 Section 33030.

9 (2) “Significant” means important and of a magnitude to  
10 warrant agency assistance.

11 (3) “Necessary and essential parcels” means parcels that are  
12 not blighted but are so necessary and essential to the elimination  
13 of the blight that these parcels should be included within the  
14 portion of the project area in which tax increment funds may be  
15 spent. “Necessary and essential parcels” are (A) parcels that are  
16 adjacent to one or more blighted parcels that are to be assembled  
17 in order to create a parcel of adequate size given present  
18 standards and market conditions, and (B) parcels that are  
19 adjacent or near parcels that are blighted on which it is necessary  
20 to construct a public improvement to eliminate the blight.

21 (d) For purposes of this section, significant blight can exist in  
22 a project area even though blight is not prevalent in a project  
23 area. The report submitted to the legislative body pursuant to  
24 Section 33352 shall identify on a map the portion of the project  
25 area in which significant blight remains.

26 (e) After the limit on the payment of indebtedness and receipt  
27 of property taxes that would have taken effect but for the  
28 amendment pursuant to this section, except for funds deposited in  
29 the Low and Moderate Income Housing Fund pursuant to Section  
30 33334.2 or 33334.6, the agency shall spend tax increment funds  
31 only within the portion of the project area that has been identified  
32 in the report adopted pursuant to Section 33352 as the area  
33 containing blighted parcels and necessary and essential parcels.  
34 Except as otherwise limited by subdivisions (f) and (g), agencies  
35 may continue to spend funds deposited in the Low and Moderate  
36 Income Housing Fund in accordance with this division.

37 (f) (1) Except as otherwise provided in this subdivision, after  
38 the limit on the payment of indebtedness and receipt of property  
39 taxes that would have taken effect, but for the amendment  
40 pursuant to this section, agencies shall only spend moneys from

1 the Low and Moderate Income Housing Fund for the purpose of  
2 increasing, improving, and preserving the community's supply of  
3 housing at affordable housing cost to persons and families of  
4 low, very low, or extremely low income, as defined in Sections  
5 50079.5, 50093, 50105, and 50106. During this period, an agency  
6 that has adopted an amendment pursuant to subdivision (a) may  
7 use moneys from the Low and Moderate Income Housing Fund  
8 for the purpose of increasing, improving, and preserving housing  
9 at affordable housing cost to persons and families of moderate  
10 income as defined in Section 50093. However, this amount shall  
11 not exceed, in a five-year period, the amount of moneys from the  
12 Low and Moderate Income Housing Fund that are used to  
13 increase, improve, and preserve housing at affordable housing  
14 cost to persons and families of extremely low income, as defined  
15 in Section 50106. In no case shall the amount expended for  
16 housing for persons and families of moderate income exceed 15  
17 percent of the annual amount deposited in the Low and Moderate  
18 Income Housing Fund during a five-year period and the number  
19 of housing units affordable to moderate-income persons shall not  
20 exceed the number of housing units affordable to extremely low  
21 income persons.

22 (2) Commencing with the first fiscal year that commences  
23 after the date of the adoption of an amendment pursuant to  
24 subdivision (a) and until the limit on the payment of indebtedness  
25 and receipt of property taxes that would have taken effect but for  
26 the amendment pursuant to this section, an agency that has  
27 adopted an amendment pursuant to subdivision (a) may use  
28 moneys from the Low and Moderate Income Housing Fund for  
29 the purpose of increasing, improving, and preserving housing at  
30 affordable housing cost to persons and families of moderate  
31 income as defined in Section 50093. However, this amount shall  
32 not exceed, in a five-year period, 15 percent of the amount of  
33 moneys deposited in the Low and Moderate Income Housing  
34 Fund during that five-year period and shall only be used to assist  
35 housing projects in which no less than 49 percent of the units are  
36 affordable to and occupied by persons and families of low, very  
37 low, or extremely low income. An agency may spend an  
38 additional amount of moneys in the same or other housing  
39 projects to assist housing units affordable to and occupied by  
40 moderate-income persons. However, this amount shall not

1 exceed the lesser of: the amount of moneys spent to increase,  
2 improve, and preserve housing at affordable housing cost to  
3 persons and families of extremely low income as defined in  
4 Section 50106, or 5 percent of the moneys deposited in the Low  
5 and Moderate Income Housing Fund during that five-year period.

6 (g) (1) Except as provided in paragraph (2) or (3),  
7 commencing with the first fiscal year that commences after the  
8 date of adoption of an amendment pursuant to subdivision (a),  
9 not less than 30 percent of all taxes that are allocated to the  
10 agency pursuant to Section 33670 from the redevelopment  
11 project area so amended shall be deposited into that project's  
12 Low and Moderate Income Housing Fund for the purposes  
13 specified in subdivision (f).

14 (2) In any fiscal year, the agency may deposit less than the  
15 amount required by paragraph (1), but not less than the amount  
16 required by Section 33334.2 or 33334.6, into the Low and  
17 Moderate Income Housing Fund if the agency finds that the  
18 difference between the amount deposited and the amount  
19 required by paragraph (1) is necessary to make principal and  
20 interest payments during that fiscal year on bonds sold by the  
21 agency to finance or refinance the redevelopment project prior to  
22 six months before the date of adoption of the amendment  
23 pursuant to subdivision (a). Bonds sold by the agency prior to six  
24 months before the date of the adoption of the amendment  
25 pursuant to subdivision (a) may only be refinanced, refunded, or  
26 restructured after the date of the amendment pursuant to  
27 subdivision (a). However, for purposes of this section, bonds  
28 refinanced, refunded, or restructured after the date of the  
29 amendment pursuant to subdivision (a) may only be treated as if  
30 sold on the date the original bonds were sold if (A) the net  
31 proceeds were used to refinance the original bonds, (B) there is  
32 no increase in the amount of principal at the time of refinancing,  
33 restructuring, or refunding, and (C) the time during which the  
34 refinanced indebtedness is to be repaid does not exceed the date  
35 on which the existing indebtedness would have been repaid.

36 (3) No later than 120 days prior to depositing less than the  
37 amount required by paragraph (1) into the Low and Moderate  
38 Income Housing Fund, the agency shall adopt, by resolution after  
39 a noticed public hearing, a finding that the difference between the  
40 amount allocated and the amount required by paragraph (1) is

1 necessary to make payments on bonds sold by the agency to  
2 finance or refinance the redevelopment project and identified in  
3 the preliminary report adopted pursuant to paragraph (9) of  
4 subdivision (e) of Section 33333.11, and specifying the amount  
5 of principal remaining on the bonds, the amount of annual  
6 payments, and the date on which the indebtedness will be repaid.  
7 Notice of the time and place of the public hearing shall be  
8 published in a newspaper of general circulation once a week for  
9 at least two successive weeks prior to the public hearing. The  
10 agency shall make available to the public the proposed resolution  
11 no later than the time of the publication of the first notice of the  
12 public hearing. A copy of the resolution shall be transmitted to  
13 the Department of Housing and Community Development within  
14 10 days after adoption.

15 (4) Notwithstanding paragraph (1), an agency that sells bonds  
16 on or after the date of adoption of an amendment pursuant to  
17 subdivision (a), the repayment of which is to be made from taxes  
18 allocated to the agency pursuant to Section 33670 from the  
19 project so amended, may elect to subordinate up to 16  $\frac{2}{3}$  percent  
20 of its annual 30-percent Low and Moderate Income Housing  
21 Fund deposit obligation to the payment of debt service on the  
22 bonds. If the agency makes that election and in any year the  
23 agency has insufficient tax-increment revenue available to pay  
24 debt service on the bonds to which the funds from the Low and  
25 Moderate Income Housing Fund are subordinated, the agency  
26 may deposit less than the full 100 percent of its annual  
27 30-percent Low and Moderate Income Housing Fund obligation  
28 but only to the extent necessary to pay that debt service and in no  
29 event shall less than 83  $\frac{1}{3}$  percent of that obligation be deposited  
30 into the Low and Moderate Income Housing Fund for that year.  
31 The difference between the amount that is actually deposited in  
32 the Low and Moderate Income Housing Fund and the full 100  
33 percent of the agency's 30-percent Low and Moderate Income  
34 Housing Fund deposit obligation shall constitute a deficit in the  
35 Low and Moderate Income Housing Fund subject to repayment  
36 pursuant to paragraph (5).

37 (5) If, pursuant to paragraph (2) or (4), the agency deposits  
38 less than 30 percent of the taxes allocated to the agency pursuant  
39 to Section 33670 in any fiscal year in the Low and Moderate  
40 Income Housing Fund, the amount equal to the difference



between 30 percent of the taxes allocated to the agency pursuant to Section 33670 for each affected redevelopment project area and the amount actually deposited in the Low and Moderate Income Housing Fund for that fiscal year shall be established as a deficit in the Low and Moderate Income Housing Fund. Any new tax increment funds not encumbered pursuant to paragraph (2) or (4) shall be utilized to reduce or eliminate the deficit prior to entering into any new contracts, commitments, or indebtedness. The obligations imposed by this section are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670 and, notwithstanding any other provision of law, shall constitute an indebtedness of the agency with respect to the redevelopment project, and the agency shall continue to receive allocations of taxes pursuant to Section 33670 until the deficit is paid in full.

(h) An agency may not amend its redevelopment plan pursuant to this section unless the agency first adopts a resolution that finds, based on substantial evidence, all of the following:

(1) The community has adopted a housing element that the department has determined pursuant to Section 65585 of the Government Code to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, or if applicable, an eligible city or county within the jurisdiction of the San Diego Association of Governments has adopted a self-certification of compliance with its adopted housing element pursuant to Section 65585.1 of the Government Code.

(2) During the three fiscal years prior to the year in which the amendment is adopted, the agency has not been included in the report sent by the Controller to the Attorney General pursuant to subdivision (b) of Section 33080.8 as an agency that has a “major violation” pursuant to Section 33080.8.

(3) After a written request by the agency and provision of the information requested by the department, the department has issued a letter to the agency, confirming that the agency has not accumulated an excess surplus in its Low and Moderate Income Housing Fund. As used in this section, “excess surplus” has the same meaning as that term is defined in Section 33334.12. The department shall develop a methodology to collect information

1 required by this section. Information requested by the department  
2 shall include a certification by the agency's independent auditor  
3 on the status of excess surplus and submittal of data for the  
4 department to verify the status of excess surplus. The  
5 independent auditor shall make the required certification based  
6 on the Controller's office guidelines which shall include the  
7 methodology prescribed by the department pursuant to  
8 subparagraph (D) of paragraph (3) of subdivision (g) of Section  
9 33334.12. If the department does not respond to the written  
10 request of the agency for this determination within 90 days after  
11 receipt of the written request, compliance with this requirement  
12 shall be deemed confirmed.

13 (i) Each redevelopment plan that has been adopted prior to  
14 January 1, 1976, that is amended pursuant to subdivision (a) shall  
15 also be amended at the same time to make subdivision (b) of  
16 Section 33413 applicable to the redevelopment plan in  
17 accordance with paragraph (1) of subdivision (d) of Section  
18 33413.

19 (j) The amendment to the redevelopment plan authorized  
20 pursuant to this section shall be made by ordinance pursuant to  
21 Article 12 (commencing with Section 33450). The ordinance  
22 shall be subject to referendum as prescribed by law for  
23 ordinances of the legislative body.

24 (k) This section shall not apply to a project area that retains its  
25 eligibility to incur indebtedness and receive tax increment  
26 revenues pursuant to Section 33333.7.

27 (l) The limitations established in the ordinance adopted  
28 pursuant to this section shall not be applied to limit allocation of  
29 taxes to an agency to the extent required to comply with Section  
30 33333.8. In the event of a conflict between these limitations and  
31 the obligations under Section 33333.8, the limitation established  
32 in the ordinance shall be suspended pursuant to Section 33333.8.

33 *SEC. 3. Section 33333.12 is added to the Health and Safety*  
34 *Code, to read:*

35 *33333.12. (a) (1) Notwithstanding the time limits in*  
36 *subdivisions (a) and (b) of Section 33333.6, an agency that*  
37 *adopted a redevelopment plan on or before December 31, 1993,*  
38 *may, pursuant to this section, amend that plan to extend the time*  
39 *limit on effectiveness of the plan for up to 10 additional years*  
40 *beyond the limit allowed by subdivision (a) of Section 33333.6.*

1     (2) In addition, the agency may, pursuant to this section,  
2     amend that plan to extend the time limit on the payment of  
3     indebtedness and receipt of property taxes to be not more than 10  
4     years from the termination of the effectiveness of the  
5     redevelopment plan as that time limit has been amended  
6     pursuant to paragraph (1).

7     (b) A redevelopment plan may be amended pursuant to  
8     subdivision (a) only after the agency finds, based on substantial  
9     evidence, that all of the following conditions exist:

10    (1) The project area is planned to be or is served by an  
11    existing publicly funded rail transit system with stations located  
12    within walking distance of large concentrations of existing and  
13    planned development.

14    (2) The project area is designated primarily for office,  
15    industrial, or research and development use, with high density  
16    residential uses allowed.

17    (3) The project area has suffered a significant loss in jobs.

18    (4) The project area has suffered a significant loss of assessed  
19    value due to loss of rental income, business inventory, or other  
20    economic factors.

21    (5) The project area suffers from significant vacancy rates in  
22    existing office, industrial, or research and development  
23    buildings.

24    (c) (1) As used in this section, “designated primarily for  
25    office, industrial, or research and development use” means  
26    zoned for employment centers containing a wide variety of users  
27    including industrial and scientific research, product design,  
28    development and testing, light manufacturing, assembly and  
29    offices, and supporting services.

30    (2) “High density residential” means a minimum of 25  
31    dwelling units per acre.

32    (d) Each redevelopment plan that has been adopted prior to  
33    January 1, 1976, that is amended pursuant to subdivision (a)  
34    shall also be amended at the same time to make subdivision (b)  
35    of Section 33413 applicable to the redevelopment plan in  
36    accordance with paragraph (1) of subdivision (d) of Section  
37    33413, from the effective date of the plan amendment.

38    (e) The amendment to the redevelopment plan authorized  
39    pursuant to this section shall be made by ordinance pursuant to  
40    Article 12 (commencing with Section 33450). The ordinance

1 *shall be subject to referendum as prescribed by law for*  
2 *ordinances of the legislative body.*

3 *(f) This section shall not apply to a project area that retains its*  
4 *eligibility to incur indebtedness and receive tax increment*  
5 *revenues pursuant to Section 33333.7.*

6 *(g) The limitations established in the ordinance adopted*  
7 *pursuant to this section shall not be applied to limit allocation of*  
8 *taxes to an agency to the extent required to comply with Section*  
9 *33333.8. If these limitations conflict with the obligations under*  
10 *Section 33333.8, the limitation established in the ordinance shall*  
11 *be suspended pursuant to Section 33333.8.*